Supreme Court, U. S.
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IN THE

# Supreme Court of the United States

OCTOBER TERM, 1975

**No. 75-487**

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY,

*Petitioner,*

*v.*

ARTHUR LAWRENCE ABRAMS,

*Respondent.*

## BRIEF FOR RESPONDENT IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

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IN THE

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ARTHUR LAWRENCE ABRAMS,

*Respondent.*

## BRIEF FOR RESPONDENT IN OPPOSITION

### Jurisdiction

Respondent denies that 28 U.S.C. Sec. 1254(1) can serve as the basis upon which this Court may acquire jurisdiction in that the "United States District Court for the District of New Jersey" was not a "Party" to the proceedings in the Court of Appeals and in that the United States Attorney, appearing before the Court of Appeals as "Attorneys for the Order", is without standing to prosecute a petition for certiorari.

## Questions Presented

May a Federal District Court disbar a lawyer by procedures which (a) ignore the rule established by this Court in *Selling* v. *Radford,* (b) fail to comply with that Court's local rules and (c) fail to comport with the requirements of due process by disbarring, at least in part, on conduct not clearly charged in advance?

## Counter-Statement of the Case

The case comes before this Court on a petition for a writ of certiorari by the United States District Court for the District of New Jersey, purportedly as an entity or body politic, to review the unanimous overturning, by the Court of Appeals, of its disciplinary Order of disbarment imposed upon Arthur Lawrence Abrams, the Respondent.

Disciplinary proceedings against Mr. Abrams were commenced initially within the jurisdiction of the New Jersey state courts. The New Jersey Supreme Court, after hearings before the Essex County Ethics Committee and argument before it, found Abrams to be in violation of certain ethical precepts that, considered with the elements of mitigative evidence presented by him, justified the imposition of a suspension for the term of one year and until the further Order of the Court (App. E of Petitioner).

Subsequent to this state court determination, the Federal District Court, relying on the record compiled during the state court inquiry, initiated its own disciplinary proceeding. Commenced by Order to Show Cause, the District Court, citing Local Rule 7 (Petitioner's Brief,



pp. 4-6) asked that Abrams show cause why he should not be disciplined by that court on the bases (1) that Abrams had been suspended from the practice of law by Order of the Supreme Court of New Jersey and (2) that Abrams "may have been guilty of conduct unbecoming a member of the Bar of this Court" (CA, pp. 434a).

On the return day of the Order, argument by counsel for Abrams before the District Court was held. No petition stating the charges pending against the Respondent was issued. No evidential hearing was called; no brief was filed in opposition to that submitted by Abrams as neither the United States Attorney nor any committee of lawyers practicing within the district of New Jersey were ever appointed to prosecute the matter.

Indeed, there were no further proceedings within the District Court at all except for the issuance of its opinion and order which, by its majority, struck Respondent from the roll of attorneys eligible to practice before that court (App. D, p. 42a).

The United States Court of Appeals for the Third Circuit, sitting *en banc* for the appeal from the District Court Order, unanimously held that the Order of disbarment (App. A of Petitioner, p. 3a fn. 1) could not stand and divided only as to whether an outright reversal or a remand was required under the circumstances shown.

Judge Aldisert, in the majority opinion, observed that, pursuant to long standing precedent, the District Court was not "totally free to ignore the original state proceedings" and to pretend that the federal Court's determination could proceed as if it were "in a vacuum" (App. A, p. 13a). Ths disciplinary power of the Federal Courts, unfettered in the abstract, becomes "circumscribed" in practice to the extent that the District Court eligibility

standards for admission are derivative from state admittance and to the extent that its disciplinary procedures follow subsequent to and rely totally upon the record created by and the legal and factual determinations drawn by the state court system of discipline (App. A, pp. 15-16a).

Applying those principles, the majority concluded that the District Court had erred by ignoring the limiting effect of derivative admission, the limiting effect of finding "no adjudicative facts on its own; instead it relied exclusively on those found by the state court" (App. A, p. 19a), and the limiting effect of relying upon a New Jersey case as reasoned authority for its action after the case had been drained of its precedential force by the State Supreme Court in the case at bar when it was expressly distinguished from the circumstances shown herein. As stated by the Circuit Court (App. A, p. 21a).

> "[T]he district court was not free to rely upon *Colsey* for New Jersey precedential guidance. Having elected to bottom its own rational analysis on New Jersey law, the controlling case for the district court was *In re Abrams*—not *In re Colsey*. And, in *Abrams*, the New Jersey Supreme Court explicitly concluded that *Colsey* was distinguishable. . . . [T]he Court could not, with fealty to consistency, disregard the interpretation of New Jersey state law by that state's highest court. . . ."

Additionally, the majority held that the proceedings in the district court were deficient since that Court, though "obliged to follow its own procedural rules," had failed to confine its inquiry, in the absence of the independent investigation allowed by their rules, to the "only charge considered" by the state court (App. A, pp. 22-24a).



Judge Rosenn, in a concurring opinion, concluded that the long established precedents of this Court created well defined and proper standards for justifying deviation in discipline from that imposed, previous to its action, by the state's highest court. In light of these precedents, he observed:

> "The District Court did not adequately explicate, and I do not perceive, any grave reasons for choosing more severe punishment than imposed by the Supreme Court of New Jersey."

The three remaining judges, though holding that the lower court judgment "cannot stand" because it violated fundamental notions of due process, believed that a remand was appropriate to provide an opportunity for the district court to file additional charges or to determine anew the extent of the discipline imposed limiting their consideration to the single issue projected from the state proceedings.

• • •

The facts of Abrams' conduct, often hidden beneath the weightier institutional arguments, seem no longer to be in substantial dispute, except for the contorted inferences or "observations" drawn from them by petitioner. The Court of Appeals accepted, for purposes of the appeal, and incorporated into its opinion the statement of facts presented within the brief of the United States Attorney (App. A, p. 3a). That which appears as number 1 of petitioner's statement is substantially similar to that part of the opinion of the Court of Appeals. Though respondent takes issue with certain of the facts alleged, our disagreement is not material at this posture of the matter. What is significant is that the Court of Appeals, having accepted the factual premises of the United States Attorney, found such legal and procedural error as to require a reversal of the judgment of the District Court.

Respondent does, however, take issue with what petitioner defines as "observations" drawn from the facts by the District Court (Brief of Petitioner, at p. 15). Of the four original charges filed by the Essex County Ethics Committee, only one, concerning Abrams' inferred knowledge that a $20,000 check he mailed to his client and co-venturer Construction Aggregates Corp. would be forwarded as an extortion payment to officials within Jersey City, was held by the State Supreme Court to be established by the record (App. E, p. 58a). Nevertheless, the district court chose to go beyond that charge and to determine, without any additional petition setting forth new charges or evidential hearing, that Abrams, in possessing a 20% interest in his client's enterprise, had taken a step which "interfered with the exercise of free judgment on behalf of the client," and that an inference may be drawn, in the absence of any offered explanation therefor, that the receipt of the $102,000 commission from the City of Jersey City based upon the purchase of the Port Jersey property was the result of collusion with public officials to create a "device to divert public funds into channels from which they could be repaid secretly to the public officials. . . ." (App. D, p. 40a).

The idea that the single charge which remained in the state proceeding can be expanded, even by the most studious of "observations", to include, within its confines a new and unexplained charge that Abrams was part of a conspiracy to defraud the city is to stretch the construction of words beyond the meaning those words are meant to convey.

If we accept the hypothetical construct that Abrams and Flaherty purposefully created the $102,000 Commission as a vehicle through which the monies could flow to the "organization" as contribution from Port Jersey, why,



knowing the size of the "reservoir", did Flaherty settle for only $20,000? Why, indeed, if the payment of $20,000 had been pre-arranged as a bribe, did the Port Jersey people engage in the machinations of resistance to it for over four months? The "charade", if such it was, played out by Sensibar over the period January-April 1969 was costly enough to place both Port Jersey and Construction Aggregates Corporation at the precipice of insolvency. None of the construction advances could be drawn against so long as road access was not gained. Interest and property taxes aggregated to over $3,000 per day. What sense did it make for Sensibar to hold out at that cost if his lawyer had already made a corrupt arrangement for him?

Under these essentially uncontroverted facts, the Essex County Ethics Committee, the last body to hear any "live" testimony, found that Abrams "characterizes such payment as extortion, and the city officials as extortioners and what has transpired would so indicate . . ." (CA-230a).

Following the expiration of the one year suspension imposed by the New Jersey Supreme Court, Abrams applied for reinstatement as an attorney within the state court system from which the Ethics proceedings had first been initiated. Following a hearing before and report by the County Ethics Committee, respondent was, by order of the supreme court, reinstated to their bar in July of 1975 (App. B of Respondent). Abrams remains to this day ineligible to practice in the United States District Court for the District of New Jersey since the mandate of the Court of Appeals, following the reversal of the disbarment by the District Court, has been stayed pending this petition for a writ of certiorari.

## ARGUMENT

1. Petitioner's assertion, mouthing the considerations of Rule 19, that this case presents issues of "first impression," seriously misconstrues the *ratio decidendi* of the Court of Appeals.

Perhaps it is most important to emphasize what was not decided below. The Court of Appeals did not hold that a district court was bound to give *res judicata* effect to the measure of discipline imposed by a state court, thereby straying from the well settled principles of *Selling* v. *Radford*, 243 U. S. 46, 50 and *Thread* v. *United States*, 354 U. S. 278. Both these cases provide that the federal court may refuse to give effect to the prior judgment if it finds, upon an "intrinsic consideration" of the record, the absence of due process, an infirmity of proof or the existence of some other "grave reason" (App. A, p. 20a).

Secondly, the Court of Appeals did not hold that the federal courts must necessarily await the completed process (charges, findings of fact, punishment) undertaken by the state court system and then rely exclusively upon that record to the preclusion of a totally separate and independent federal system (App. A, p. 15a). The majority opinion, contrary to the submission of the petitioner, does not seek to or effect a foreclosure of any future action by a district court, pursuant to its rule-making power, to wipe the slate clean and build its own system of admission and discipline independent of the state courts.

What it does say is that at present, the slate is not clean and that to the extent that federal admission is



derivative to state admission, to the extent that federal bar discipline is subsequent to and depends upon the state court record, and to the extent that precedents guiding the imposition and severity of discipline are exclusively those decided by the State courts—then to the same extent is the district court bound (subject to the narrow exceptions delineated by this Court in *Selling*) to the charges, the findings, and the measure of discipline imposed by the state's highest court.

The distillation of the opinion of Judge Aldisert (App. A, pp. 15-16a) merely restates what was, prior to the action of the District Court, the well settled foundation for the actual practice of the federal courts since the foundation of the Republic. The Court of Appeals, in reversing, merely determined that the district court judgment was an aberration which could not be permitted to stand in light of a plethora of long established precedents holding to the contrary.

No other district court has ever, by reported decision or by current practice, imposed more stringent discipline upon an attorney than that meted out, previous to its action, by the state's highest court. None of the sixty-eight district courts responding to a survey inquiring as to the existence of any deviations from the state disciplinary advised us as to any instances of such cases (Respondent App. A). If indeed there is any court acting inconsistently with prior precedent, we would submit that it is the very court reversed by the Court of Appeals in the instant matter.

Petitioner does not even attempt to show, nor could he, any conflict with other Courts of Appeals as to the ap-

plicability of the line of cases commencing with *Selling*, supra.*

Therefore, we would submit that the within case presents no more unique an issue than the application of principles previously settled by this Court to the facts and circumstances established in the state court record and that the judgment of the Court of Appeals did no more than restore these well settled principles to their hitherto unchallenged status.

2. Petitioner in its Brief attempts to deflect the statement by the Court of Appeals that a district court, acting subsequent to and derivative from the state court record, "must not operate in a vacuum" nor may it be "totally free to ignore the original state proceedings" by citing to the purported practice of this Court of disbarring lawyers, following an Order to Show Cause, based on a suspension by a state court. Other than the Orders themselves, which are cryptic in their language, no opinions were issued nor standards promulgated which discussed, to any extent, the rationale for the action.

By disbarring each and every attorney who becomes the subject of an Order to Show Cause as a result of a state court suspension, this Court has chosen, either by practice or by interpretation of its Rule 8, to set a uniform standard that state court suspension shall be a sufficient basis for disbarment.

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* Petitioner does, for purposes of "contrast", allude to the recent decision of *In re Richard G. Kleindienst* by way of footnote at p. 21 of its brief. In labeling that decision as one decided by a "circuit" court, petitioner seems to suffer from the delusion that the District of Columbia Court of Appeals is the same judicial body, which it is not, as the United States Court of Appeals for the District of Columbia. It would only be a judgment of the latter body that would be coordinate to and capable of creating a "conflict" with the judgment of the Court of Appeals here under review.



Neither the District Court nor petitioner has ever claimed that the suspension of Abrams imposed by the New Jersey Supreme Court, without more, was the basis for his disbarment by their Court. In the instant case, the District Court, on an ad hoc basis, not justified by any rule or practice, acted to disbar Abrams, not for his being suspended, but for their preception of his underlying conduct. Whether a district court might, exercising its autonomous power to regulate the lawyers who populate both its bar and that of the New Jersey State Courts, promulgate a rule or formulate a uniform practice to disbar permanently all those who theretofore suffered a suspension by the State Courts is an issue in abstraction not reached by or necessary to the disposition of this case.

Moreover, there is no indication within the orders of the Supreme Court as to the permanency of its actions. Petitioner cites no case establishing the proposition that the Supreme Court would refuse to reinstate a theretofore disbarred attorney once the State Court, which initially disciplined him, had restored him to his place at its bar and certified that the attorney had the requisite character to be a member of its bar.

In July of this year, Arthur Lawrence Abrams, pursuant to his petition, and following a hearing before and the report of the Ethics Committee, was reinstated by the Supreme Court of New Jersey as an attorney of that State (App. B of Respondent). Until the reversal by the Court of Appeals, the mandate of which was stayed pending application to this Court, there was no hint within the opinion of the District Court majority, notwithstanding reinstatement in the state court, of anything but permanency to their judgment, no glimmer that expiation and rehabilitation might some day permit reasonable hope of his being granted reinstatement by that tribunal.

3. Petitioner makes the altogether curious assertion at p. 25 of its brief that violation by the district court of its own procedural rules or those procedural safeguards incorporated within the concept of due process was unreviewable by the Court of Appeals. Not surprisingly, no authority is cited for this proposition. For there is none to support it.

There surely is nothing "novel" in the requirement that an attorney be granted advance notice of the charges against him and an opportunity to be heard as to those charges. When the District Court determined to expand their inquiry beyond the "only charge considered" by the state courts, it owed Abrams those simple obligations of fairness.

That a disbarment may not stand where the basis for discipline is unethical conduct which, in whole or in part, was not charged in advance had already been well settled by *In re Ruffalo,* 390 U. S. 544, 551. See also *Spevack* v. *Klein,* 385 U. S. 511; *Willner* v. *Committee on Character & Fitness,* 373 U. S. 96, 103.

Petitioner's attempt to elude the grasp of *Ruffalo* on the basis that in the instant case no new charge was ever filed is feeble indeed. Can the petitioner really believe that the absence of a formal charge as to the commission fund, however belated it might have been filed, makes this situation anything other than a more egregious violation of due process than that perpetrated in *Ruffalo*?

As for the newly arrived disclaimer that the "additional matters considered" (Petitioner's Brief at p. 27) by the district court were not of material import, can the petitioner seriously believe that the finding in the District Court opinion that Abrams conspired with Council President Flaherty to defraud the City by channeling the



commission funds into secret payments to public officials did not bear substantially on their evaluation of his ethical violations?

Moreover, aside from what due process would otherwise require, the action taken by the District Court was fatally defective since that Court blatantly and consciously disregarded its own local rules (Rule No. 7). That Rule established the method by which the District Court would operate in imposing discipline where an attorney was alleged to be "guilty of conduct unbecoming a member of the Bar of this court." (Petitioner's Brief, p. 4). No averment even appears within the petition that compliance with the Rule was secured by the actions of the district court. Certainly, there is little that is novel in the statement by Judge Aldisert, in the majority opinion, that the lower court "was obliged to follow its own procedural rules" (App. A, p. 23a). See *Vitarelli* v. *Seaton,* 359 U. S. 535, 539-40.

Therefore, whether calculated against the requirements of due process or the provisions of local Rule 7, the actions of the District Court plainly were deficient. The reversal by the Court of Appeals, being eminently correct and in accord with unquestioned precedent, merely rectified the errors committed and requires no review by this Court.

4. Under 28 U.S.C. § 1254(1), only a "party" to a case in the Court of Appeals may seek review of that judgment in this court. We would submit that neither the "United States District Court for the District of New Jersey" nor the United States Attorney on its behalf was a "party" to the appeal before the Third Circuit and that they are, for this reason and others, without standing to petition for a writ of certiorari.

Ordinarily, a District Court, in deciding cases before it, either originally or on remand is required to follow and be bound by a precedent of its Court of Appeals and its failure so to do would constitute a clear abuse of discretion. *United States ex rel. Schnitzler* v. *Follete,* 406 F. 2d 319, 332 (2d Cir. 1969); *Minnich* v. *Nabuda,* 336 F. Supp. 769, 770 (E. D. Pa. 1972); *Matzner* v. *Brown,* 288 F. Supp. 608, 611 (D. N. J. 1968). Though it may disagree with the views held by the Court of Appeals, the district court may not transmute itself from a court into a "party" to seek a review of the judgment of that superior court.

During the proceedings before the Third Circuit, John J. Barry, Esq., an Assistant United States Attorney, appeared, on behalf of the United States Attorney, as "Attorneys for the Order." As lawyers representing an inaminate object—the Order—the role of the office of the United States Attorney partook of the status analogous to one amicus curiae among many. The office of the United States Attorney did not purport to represent, at that time, the United States District Court for the District of New Jersey nor did it seek an order of intervention by which it would have become a party in its own right.

It is settled that the status of an amicus curiae does not entitle one to be a "party" nor to file a petition with this Court to review a judgment by the Court of Appeals. *International Union, Local 283* v. *Scofield,* 382 U. S. 205, 209; *Ex parte Leaf Tobacco Board,* 222 U. S. 578.

While it seems clear that a District Court may enlist the services of the United States Attorney to assist in proceedings before that court, we find no authority empowering the United States Attorney to appeal from a



Circuit Court judgment reversing an order of the district court in a proceeding, as here, in which the United States Attorney did not participate? Petitioner may well argue that the District Court is drawing upon the sovereign power it shares as an agency of the United States which expands its power beyond that granted by statute. The short answer, it is submitted, is that the Judicial entity known as the "United States District Court for the District of New Jersey" has no power to act in any way, including its right to appeal, not conferred by statute. *United States* v. *Rice,* 327 U. S. 742, 749.

Nor can the invocation of the general public interest create standing to appeal which does not otherwise exist. *Sierra Club* v. *Morton,* 405 U. S. 727. And if the district court may not pursue the matter, surely the position of the United States Attorney on its own is no stronger. *In re Teitelbaum,* 253 F. 2d 1, 2 (7th Cir. 1958).

Finally, if the judges do not possess standing in their judicial capacity to question, by way of review in this Court, the judgment of the Court of Appeals, there should be no doubt that they similarly lack standing even were the caption reformulated to include the names of the judges as individual petitioners.

As the United States Attorney has failed to show its standing to pursue this petition, we would submit that the petition should be dismissed.

## CONCLUSION

**For the foregoing reasons, it is respectfully submitted that this petition for a writ of certiorari should be dismissed or denied.**

Respectfully submitted,

CLIVE S. CUMMIS
*Counsel for Respondent*
33 Washington Street
Newark, New Jersey 07102

JERALD D. BARANOFF
*On the Brief*

October 1975

## APPENDIX A

**Affidavit of Jerald D. Baranoff, Esq., dated March 27, 1975**

IN THE
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

---

In the Matter of
ARTHUR LAWRENCE ABRAMS,
An Attorney at Law,
Appellant.

---

STATE OF NEW JERSEY,
COUNTY OF ESSEX, } ss.:

JERALD D. BARANOFF, of full age, having been duly sworn according to law, upon his oath deposes and says:

1. I am an attorney at law of the State of New Jersey and an associate with the firm of Sills, Beck, Cummis, Radin & Tischman, P. A., counsel to the appellant, Arthur Lawrence Abrams, in the above listed appeal. I have been responsible for the preparation of the appeal in the within matter under the supervision and direction of Clive S. Cummis, Esq.

*Appendix A*

2. I was informed by Mr. Cummis that at a pre-hearing conference scheduled before Chief Judge Seitz, attended both by John J. Barry, Esq and Mr. Cummis, the Chief Judge had requested that we supply the Court with as much information as possible as to how other courts have handled the issue posed here.

3. Pursuant to the discussion with Chief Judge Seitz, this firm prepared the form letter attached hereto and made a part hereof as Exhibit A which we addressed and mailed to each of the 89 Federal District Courts situate within the 50 states of this country and the District of Columbia. Letters were prepared and mailed from our offices between the period January 29 to January 31, 1975.

4. To this date we have received responses from the Clerk of the District Court (or a judge in that district writing on his behalf) for 68 of the 89 jurisdictions. I have personally prepared the schedule of responses of the United States District Courts as to their disciplinary practice which is attached hereto and made a part hereof.

5. I hereby certify that I have in my custody and control the responses to which reference is made in the attached schedule. I also certify that the summary or quotations contained therein are an accurate reproduction from the original letters which remain in my possession.

6. I hereby certify that the information contained within the schedule and in this affidavit is true, to the best of my knowledge, and that if willfully false, I am subject to punishment.

JERALD D. BARANOFF

(Sworn to March 27, 1975).



*Appendix A*

**Exhibit A, Form Letter Attached to Foregoing Affidavit**

[LETTERHEAD OF
SILLS, BECK, CUMMIS, RADIN & TISCHMAN]

Re: In the Matter of Arthur Lawrence Abrams
an Attorney At Law—No. 75-1029

Sir:

This firm is counsel to Arthur Lawrence Abrams, Esq. with respect to an appeal currently pending before the United States Court of Appeals for the Third Circuit from a disciplinary order entered against him by the United States District Court for the District of New Jersey.

Disciplinary proceedings against Mr. Abrams commenced initially within the jurisdiction of the state courts where ultimately the New Jersey Supreme Court, on the basis of the testimony adduced before and reports issued by its County Ethics Committee, entered an Order suspending him from the practice of law for one year (65 N.J. 172, 320 A. 2d 471, (1974)). Subsequent to this State Court determination, the Federal District Court, relying on the record compiled during the state court inquiry, initiated its own disciplinary proceeding by Order to Show Cause and after argument ordered that Mr. Abrams be permanently striken from its roll of attorneys. 43 U.S. L.W. 2270 (January 7, 1975)

We have been requested by the Honorable Collins J. Seitz, Chief Judge of the Third Circuit, to ascertain, as part of our presentation, the existence of any and all past instances in which a Federal District Court has deviated, whether by stringency or leniency, from the measure of discipline imposed previous to its action by the state's highest court.

*Appendix A*

Pursuant to such request, we would greatly appreciate any assistance your office could render with regard to the facts and circumstances surrounding each case where the District Court did not follow the state court determination in a disciplinary matter.

We recognize that your position as Clerk might not provide you with the information we seek to solicit. We would hope, however, that the Judges in your District, once apprised of our inquiry on behalf of the Third Circuit, would see fit to supply the information we desire to aid a coordinate federal court in its determination of this matter.

Respectfully yours,

CLIVE S. CUMMIS

CSC/cb



*Appendix A*

**Schedule of Responses of U. S. District Courts to Disciplinary Practice, Annexed to Foregoing Affidavit**

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Alabama, Northern | Feb. 3, 1975 | "no recollection of this Court ever having disregarded the disciplinary action of the Supreme Court of Alabama" | Rule 7(a)(2) |
| Alabama, Middle | Feb. 4, 1975 | no knowledge of any instances of deviation | None |
| Alabama, Southern | Feb. 12, 1975 | "neither the Judges nor the undersigned (Clerk) can recall any other similar instance" | None |
| Alaska | Feb. 7, 1975 | *Mackay* only proceeding which can be recalled of deviation | *In Re Mackay* 298 F. Supp. 170 (1969) |
| Arizona | Feb. 14, 1975 | "no instances when the action taken by the U. S. District Court was more or less severe than the disciplinary action taken by the State Court" | None |
| Arkansas, Eastern | ——— | No response | ——— |

*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Arkansas, Western | Feb. 13, 1975 | Substance of *Jones* opinion | *In Re Jones* 506 F. 2nd 527 (8th Cir. 1974) |
| California, Central | Undated | "our records do not indicate past instances where this Court has deviated from the action taken by the State Court" | None |
| California, Northern | Feb. 26, 1975 | "in no instance has this Court deviated from the measure of discipline imposed by the Supreme Court of California" | None |
| California, Southern | Feb. 5, 1975 | "no instances in which this Court has deviated from the measure of discipline imposed by this State's highest Court" | None |
| Colorado | Feb. 10, 1975 | "in my thirteen years of association with this office I have not seen a case where this Court has deviated from the State Supreme Court disciplinary measures" | None |



*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Connecticut | Jan. 30, 1975 | Rule requires attorney "shall be automatically disbarred or suspended for a like period from practice in this Court" | Rule 2(d)(2) |
| Delaware | Feb. 3, 1975 | "knows of no case where the action taken by the Federal Court differed from that taken by the State Supreme Court" | None |
| District of Columbia | Feb. 3, 1975 | "knows of no instance where this Court has imposed different discipline . . ." | None |
| Florida, Northern | ———— | No response | ———— |
| Florida, Middle | Jan. 31, 1975 | knowledge of no instances of deviation in Clerk's 22 years of experience | None |
| Florida, Southern | Feb. 24, 1975 | "never had occasion to deviate from the discipline imposed by action of our State Supreme in such matters" | None |

*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Georgia, Northern | Jan. 31, 1975 | no records indicating deviation | None |
| Georgia, Middle | Feb. 14, 1975 | "no instances where this Court failed to follow the State Court determination in a disciplinary matter" | None |
| Georgia, Southern | Feb. 11, 1975 | "no instance in memory" where District Court disciplined "more stringently or more leniently than discipline imposed by the Supreme Court of Georgia" | None |
| Hawaii | Feb. 3, 1975 | "not deviated from any recommendation or action of the Hawaii State Supreme Court" | None |
| Idaho | Feb. 14, 1975 | "unable to find any instance in which this Court has deviated from the discipline imposed by the Idaho Supreme Court" | Rule 2(f) |



*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Illinois, Northern | ———— | No response | ———— |
| Illinois, Eastern | ———— | No response | ———— |
| Illinois, Southern | Feb. 13, 1975 | no cases "in which the Federal Court did not follow the State Court determination pertaining to discipline of attorneys" | None |
| Indiana, Northern | ———— | No response | ———— |
| Indiana, Southern | ———— | No response | ———— |
| Iowa, Northern | Feb. 3, 1975 | "practice (of State Supreme Court) to suspend attorneys indefinitely and allow them to apply for reinstatement after a given period of time. As near as we can tell from our records, this Court has followed a similar procedure" | None |
| Iowa, Southern | Feb. 13, 1975 | "no instances in this District where our Court did not follow the state Court's determination in a disciplinary matter" | None |

*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Kansas | Feb. 11, 1975 | "not appear that our Court deviates from the measure of discipline imposed by our State Supreme Court | Rule 4 |
| Kentucky, Eastern | ———— | No response | ———— |
| Kentucky, Western | ———— | No response | ———— |
| Louisiana, Eastern | Feb. 10, 1975 | Enclosed Local Rule 1(f) | Rule 1(f) |
| Louisiana, Middle | Undated | "A similar matter has never been before the Court" | None |
| Louisiana, Western | Feb. 4, 1975 | no knowledge of any deviation for past 29 years since becoming Clerk | None |
| Maine | Feb. 14, 1975 | "cannot recall any instances in which there has been such deviation" | None |
| Maryland | Feb. 11, 1975 | deviation to extent that those who submitted a "resignation with prejudice" in State Court were disbarred by District Court | None |



*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Massachusetts | March 10, 1975 | "not know of any instance where this Court has deviated from the measure of discipline imposed upon attorneys by the Supreme Court of Massachusetts" | None |
| Michigan, Eastern | ———— | No response | ———— |
| Michigan, Western | ———— | No response | ———— |
| Minnesota | Feb. 6, 1975 | "our Court has followed State Court determinations in these matters" | None |
| Mississippi, Northern | Feb. 4, 1975 | no record of any past instances of deviation | None |
| Mississippi, Southern | Feb. 3, 1975 | "can find no record of the nature you requested" | None |
| Missouri, Eastern | Feb. 4, 1975 | Disbarment subject to reinstatement which has never been refused by District Court once readmitted to State Courts | Rule II(d) |

*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Missouri, Western | ———— | No response | ———— |
| Montana | Feb. 13, 1975 | strike name from rolls, following show cause hearing of attorneys disciplined by State Supreme Court. "The attorney is again reinstated upon notification that he has been reinstated by the Supreme Court of Montana" | None |
| Nebraska | Feb. 3, 1975 | "not aware of any instance in this District when the Court deviated from the attorney disciplinary action pronounced by the Nebraska Supreme Court . . ." | None |
| Nevada | ———— | No response | ———— |
| New Hampshire | Feb. 4, 1975 | "unaware of any case in which this Court deviated from disciplinary action taken by the New Hampshire Supreme Court" | Rule 4(e) *In Re Silverstein* 108 N. H. 400 |



*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| New Mexico | Feb. 12, 1975 | "cannot be of any assistance to you whatsoever in this regard . . ." | None |
| New York, Northern | ———— | No response | ———— |
| New York, Eastern | ———— | No response | ———— |
| New York, Southern | Feb. 6, 1975 | Discussion of Rule that attorney disciplined by another Court "shall be disciplined to same extent" unless within 30 days of Order to Show Cause, attorney shows (1) deprivation of due process, (2) infirmity of proof, (3) grave injustice or (4) "that the misconduct established has been held by this Court to warrant substantially different discipline" | Rule 5(d) |
| New York, Western | Feb. 5, 1975 | "policy adopted by Courts" is that upon notification of disbarment or suspension in State Court, attorney is "Stricken from the rolls of our Court" | None |

*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| North Carolina, Middle | Feb. 3, 1975 | no cases "recalled by court personnel" of any deviation from measure of discipline imposed by the State | Rule 2(f) |
| North Carolina, Eastern | Feb. 18, 1975 | no recall of any instance of deviation | None |
| North Carolina, Western | ———— | No response | ———— |
| North Dakota | Feb. 6, 1975 | Court has on at least two separate occasions (Almo T. Christensen & Scott G. Anderson) ordered that attorneys suspended by State Court "be stricken for that period of suspension, subject to proper application for reinstatement to this Court" | Rule E & F |
| Ohio, Northern | ———— | No reponse | ———— |
| Ohio, Southern | Feb. 6, 1975 | None who have been disbarred or permanently suspended by State Court have resisted disciplinary proceedings | None |



*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Oklahoma, Eastern | Feb. 10, 1975 | "not been involved in a disciplinary action as outlined in your letter" | None |
| Oklahoma, Northern | ———— | No response | ———— |
| Oklahoma, Western | Feb. 3, 1975 | "this District has always followed the State Supreme Court's ruling on disbarment proceedcedures for attorneys" | None |
| Oregon | Feb. 14, 1975 | "customary procedure to seek voluntary resignation" from attorney suspended or disbarred by State Court. District Court has a "universal practice (which is) to withhold reinstatement until that attorney is reinstated to full privileges in the State Bar" | None |
| Pennsylvania, Middle | Feb. 3, 1975<br>Feb. 5, 1975 | Discussion of *Dreir Case* | *In Re Drier* 258 F. 2nd 68 (3rd Cir., 1958) |

*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Pennsylvania, Western | ——— | No response | ——— |
| Pennsylvania, Eastern | Feb. 7, 1975 | "has not deviated either by being more stringent or more lenient from disciplinary sanctions imposed upon a member of the bar of the Supreme Court of Pennsylvania" | None |
| Rhode Island | March 5, 1975 | District Court "has relied upon the State record as well as upon the measure of discipline imposed by the State's highest Court" | None |
| South Carolina | ——— | No response | ——— |
| South Dakota | Feb. 5, 1975 | Discussion of Rule; no discussion as to instances of deviation or practice | Section 7 |
| Tennessee, Eastern | Feb. 13, 1975 | "This Court has followed the State Court determination in all disciplinary matters" | None |



*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Tennessee, Middle | Feb. 7, 1975 | no experience concerning disciplinary matters in which the District Court deviated from the measure of discipline imposed by the State's highest Court | None |
| Tennessee, Western | Feb. 10, 1975 | "not aware of any case in point with your inquiry'" | None |
| Texas, Northern | ——— | No response | ——— |
| Texas, Eastern | Feb. 4, 1975 | "it has been our experience" that the District Court "imposes the same disciplinary action that is ordered by the State Court" | None |
| Texas, Southern | Feb. 28, 1975 | "we have invariably followed the penalties and recommendations imposed by the State Bar Grievance Committee proceedings" | None |
| Texas, Western | Feb. 12, 1975 | Discussion of Rule | Rule 3 |

*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Utah | Feb. 4, 1975 | "We know of no situation where the Judges of the Court have deviated from the measure of discipline previously imposed by the State's highest Court" | None |
| Vermont | Feb. 4, 1975 | No disciplinary action taken against any attorney during the past three years | None |
| Virginia, Eastern | Feb. 4, 1975 | Discussion of Rule which reads in part, "If an attorney's membership in the State bar is suspended, his membership in the bar of this Court shall be suspended for the same period" | Rule 7(h) |
| Virginia, Western | Feb. 12, 1975 | "we have had no disciplinary problems in this Court concerning any attorney authorized to practice in the Western District" | None |



*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Washington, Eastern | Feb. 14, 1975 | District Court "has not, to the knowledge of anyone presently employed, had such an occasion arise" | None |
| Washington, Western | Feb. 5, 1975 | "unable to find any instance in which the action of the Federal District Court deviated from that of the State Supreme Court in a disciplinary proceeding . . ." | None |
| West Virginia, Northern | Feb. 3, 1975 | not "aware of any instance in which this Court has deviated from application of the measure of discipline imposed upon attorney by the West Virginia Supreme Court of Appeals" | None |
| West Virginia, Southern | Jan. 31, 1975 | In no instance "had this Court ever deviated from the action of the State Supreme Court in matters of discipline" | None |

*Appendix A*

| *District Courts* | *Date of Response* | *Substance of Response* | *Cited Rule or Case* |
|---|---|---|---|
| Wisconsin, Eastern | Jan. 31, 1975 | "find no instance in which this District Court did not follow the determination of the Wisconsin Supreme Court in disbarment or suspension proceedings" | None |
| Wisconsin, Western | Feb. 3, 1975 | not "recall any instance in this District in which this Court imposed a different measure of discipline upon an attorney than that previously imposed by the Wisconsin Supreme Court" | None |
| Wyoming | Feb. 3, 1975 | "no discipline has been meted out to an attorney which has differed in any respect from the State Court determination" | None |



## APPENDIX B

**Order of Mountain, P.J.S.C., dated July 10, 1975**

SUPREME COURT OF NEW JERSEY

D-67 September Term 1974

In the Matter of

ARTHUR LAWRENCE ABRAMS

An Attorney at Law

This matter having been duly presented to the Court, it is ORDERED that the suspension of Arthur Lawrence Abrams of Newark be lifted, and he is restored to the practice of law, effective immediately.

WITNESS, the Honorable Worrall F. Mountain, Presiding Justice, at Trenton, this 10th day of July, 1975.

Filed
July 10, 1975

FLORENCE R. PESHOE
Clerk

FLORENCE R. PESHOE
Clerk

A True Copy.

FLORENCE R. PESHOE
Clerk